

thorized by Public Law 101-301, shall prepare a report on the need for comprehensive, accurate and periodically updated information on the size and characteristics of the Indian and Alaska Native population throughout the entire United States. This report shall include the need for information, together with the cost of acquiring such information, on the characteristics and need for education, health, housing, job training, and other basic needs of such population, and shall take into consideration the need for this information by Indian tribes and organizations serving Indians in nonreservation areas. The report shall be submitted to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources and the Committee on Education and Labor of the House of Representatives not later than 12 months after October 23, 1992.

(Pub. L. 102-477, §17, Oct. 23, 1992, 106 Stat. 2305; Pub. L. 103-437, §10(e)(1), (2)(C), Nov. 2, 1994, 108 Stat. 4589.)

#### REFERENCES IN TEXT

Public Law 101-301, referred to in subsec. (b), is Pub. L. 101-301, May 24, 1990, 104 Stat. 206. Section 11 of Pub. L. 101-301, which authorized feasibility study for the establishment of a National Center for Native American Studies and Policy Development, is not classified to the Code. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1994—Subsec. (b). Pub. L. 103-437 substituted “Committee on Indian” for “Select Committee on Indian” and “Natural Resources” for “Interior and Insular Affairs”.

#### CHANGE OF NAME

Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives and Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

#### § 3417. Assignment of Federal personnel to State Indian economic development programs

Any State with an economic development program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of the Intergovernmental Personnel Act of 1970 [42 U.S.C. 4701 et seq.], may deem appropriate to help ensure the success of such program.

(Pub. L. 102-477, §18, Oct. 23, 1992, 106 Stat. 2306.)

#### REFERENCES IN TEXT

The Intergovernmental Personnel Act of 1970, referred to in text, is Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, as amended, which enacted sections 3371 to 3376 of Title 5, Government Organization and Employees, and chapter 62 (§4701 et seq.) of Title 42, The Public Health and Welfare, amended section 1304 of Title 5 and section 246 of Title 42, repealed sections 1881 to 1888 of Title 7,

Agriculture, and section 869b of Title 20, Education, and enacted provisions set out as notes under section 3371 of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of Title 42 and Tables.

### CHAPTER 37—INDIAN ENERGY RESOURCES

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#### § 3501. Definitions

For purposes of this chapter—

(1) the term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(2) the term “Indian reservation” includes Indian reservations; public domain Indian allotments; former Indian reservations in Oklahoma; land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.

(Pub. L. 102-486, title XXVI, §2601, Oct. 24, 1992, 106 Stat. 3113.)

#### REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in text, is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688,

as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 3056.

**§ 3502. Tribal consultation**

In implementing the provisions of this Act, the Secretary of Energy shall involve and consult with Indian tribes to the maximum extent possible and where appropriate and shall do so in a manner that is consistent with the Federal trust and the Government-to-Government relationships between Indian tribes and the Federal Government.

(Pub. L. 102-486, title XXVI, §2602, Oct. 24, 1992, 106 Stat. 3113.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2776, known as the Energy Policy Act of 1992. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of Title 42, The Public Health and Welfare, and Tables.

**§ 3503. Promoting energy resource development and energy vertical integration on Indian reservations**

**(a) Demonstration programs**

The Secretary of Energy, in consultation with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes in pursuing energy self-sufficiency and to promote the development of a vertically integrated energy industry on Indian reservations, in order to increase development of the substantial energy resources located on such Indian reservations. Such program shall include, but not be limited to, the following components:

(1) The Secretary shall provide development grants to Indian tribes or to joint ventures which are 51 percent or more controlled by an Indian tribe to assist Indian tribes in obtaining the managerial and technical capability needed to develop the energy resources on Indian reservations. Such grants shall include provisions for management training for tribal or village members, improving the technical capacity of the Indian tribe, and the reduction of tribal unemployment. Each grant shall be for a period of 3 years.

(2) The Secretary shall provide grants, not to exceed 50 percent of the project costs, for vertical integration projects. For purposes of this paragraph, the term “vertical integration project” means a project that promotes the vertical integration of the energy resources on an Indian reservation, so that the energy resources are used or processed on such Indian reservation. Such term includes, but is not limited to, projects involving solar and wind energy, oil refineries, the generation and transmission of electricity, hydroelectricity, cogeneration, natural gas distribution, and clean, innovative uses of coal.

(3) The Secretary shall provide technical assistance (and such other assistance as is appropriate) to Indian tribes for energy resource

development and to promote the vertical integration of energy resources on Indian reservations.

**(b) Low interest loans**

**(1) In general**

The Secretary shall establish a program for making low interest loans to Indian tribes. Such loans shall be used exclusively by Indian tribes in the promotion of energy resource development and vertical integration on Indian reservations.

**(2) Terms**

The Secretary shall establish reasonable terms for loans made under this section which are to be used to carry out the purposes of this section.

**(c) Authorization of appropriations**

There are authorized to be appropriated—

(1) \$10,000,000 for each of the fiscal years 1994, 1995, 1996, 1999, 2000, 2001, 2002 and 2003 to carry out the purposes of subsection (a)(1) of this section;

(2) \$10,000,000 for each of the fiscal years 1994, 1995, 1996, 1999, 2000, 2001, 2002 and 2003 to carry out the purposes of subsection (a)(2) of this section; and

(3) \$10,000,000 for each of the fiscal years 1994, 1995, 1996, 1999, 2000, 2001, 2002 and 2003 to carry out the purposes of subsection (b) of this section.

(Pub. L. 102-486, title XXVI, §2603, Oct. 24, 1992, 106 Stat. 3114; Pub. L. 105-388, §10, Nov. 13, 1998, 112 Stat. 3484.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-388, substituted “1999, 2000, 2001, 2002 and 2003” for “and 1997” wherever appearing.

**§ 3504. Indian energy resource regulation**

**(a) Grants**

The Secretary of the Interior is authorized to make annual grants to Indian tribes for the purpose of assisting Indian tribes in the development, administration, implementation, and enforcement of tribal laws and regulations governing the development of energy resources on Indian reservations.

**(b) Purpose**

The purposes for which funds provided under a grant awarded under subsection (a) of this section may be used include, but are not limited to—

(1) the training and education of employees responsible for enforcing or monitoring compliance with Federal and tribal laws and regulations;

(2) the development of tribal inventories of energy resources;

(3) the development of tribal laws and regulations;

(4) the development of tribal legal and governmental infrastructure to regulate environmental quality pursuant to Federal and tribal laws; and

(5) the enforcement and monitoring of Federal and tribal laws and regulations.

**(c) Other assistance**

The Secretary of the Interior and the Secretary of Energy shall cooperate with and provide assistance to Indian tribes for the purpose of assisting Indian tribes in the development, administration, and enforcement of tribal programs. Such cooperation and assistance shall include the following:

- (1) Technical assistance and training, including the provision of necessary circulars and training materials.
- (2) Assistance in the preparation and maintenance of a continuing inventory of information on tribal energy resources and tribal operations. In providing assistance under this paragraph, Federal departments and agencies shall make available to Indian tribes all relevant data concerning tribal energy resource development consistent with applicable laws regarding disclosure of proprietary and confidential information.

**(d) Authorization of appropriations**

There are authorized to be appropriated \$10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of this section.

(Pub. L. 102-486, title XXVI, §2604, Oct. 24, 1992, 106 Stat. 3114.)

**§ 3505. Indian Energy Resource Commission****(a) Establishment**

There is hereby established the Indian Energy Resource Commission (hereafter in this section referred to as the "Commission").

**(b) Membership**

The Commission shall consist of—

- (1) 8 members appointed by the Secretary of the Interior from recommendations submitted by Indian tribes with developable energy resources, at least 4 of whom shall be elected tribal leaders;
- (2) 3 members appointed by the Secretary of the Interior from recommendations submitted by the Governors of States that have Indian reservations with developable energy resources;
- (3) 2 members appointed by the Secretary of the Interior from among individuals in the private sector with expertise in tribal and State taxation of energy resources;
- (4) 2 members appointed by the Secretary of the Interior from individuals with expertise in oil and gas royalty management administration, including auditing and accounting;
- (5) 2 members appointed by the Secretary of the Interior from individuals in the private sector with expertise in energy development;
- (6) 1 member appointed by the Secretary of the Interior from recommendations submitted by National environmental organizations;
- (7) the Secretary of the Interior, or his designee; and
- (8) the Secretary of Energy, or his designee.

**(c) Appointments**

Members of the Commission shall be appointed not later than 60 days after October 24, 1992.

**(d) Vacancies**

A vacancy in the Commission shall be filled in the same manner as the original appointment

was made. A vacancy in the Commission shall not affect the powers of the Commission.

**(e) Chairperson**

The members of the Commission shall elect a Chairperson from among the members of the Commission.

**(f) Quorum**

Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

**(g) Organizational meeting**

The Commission shall hold an organizational meeting to establish the rules and procedures of the Commission not later than 30 days after the members are first appointed to the Commission.

**(h) Compensation**

Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission, not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

**(i) Travel**

While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees under sections 5702 and 5703 of title 5.

**(j) Commission staff****(1) Executive Director**

The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5.

**(2) Additional personnel**

With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such appointments shall be made in accordance with the provisions of title 5 governing appointments in the competitive service, but at rates not to exceed the rate of basic pay payable for level 15 of the General Schedule.

**(3) Experts and consultants**

Subject to such rules as may be issued by the Commission, the Chairperson may procure temporary and intermittent services of experts and consultants to the same extent as is authorized by section 3109 of title 5, but at rates not to exceed \$200 a day for individuals.

**(4) Personnel detail authorized**

Upon the request of the Chairperson, the head of any Federal agency is authorized to

detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this chapter. Such detail shall be without interruption or loss of civil service status or privilege.

#### **(k) Duties of Commission**

The Commission shall—

(1) develop proposals to address the dual taxation by Indian tribes and States of the extraction of mineral resources on Indian reservations;

(2) make recommendations to improve the management, administration, accounting and auditing of royalties associated with the production of oil and gas on Indian reservations;

(3) develop alternatives for the collection and distribution of royalties associated with production of oil and gas on Indian reservations;

(4) develop proposals on incentives to foster the development of energy resources on Indian reservations;

(5) identify barriers or obstacles to the development of energy resources on Indian reservations, and make recommendations designed to foster the development of energy resources on Indian reservations and promote economic development;

(6) develop proposals for the promotion of vertical integration of the development of energy resources on Indian reservations; and

(7) develop proposals on taxation incentives to foster the development of energy resources on Indian reservations including, but not limited to, investment tax credits and enterprise zone credits.

#### **(l) Powers of Commission**

The powers of the Commission shall include the following:

(1) For the purpose of carrying out its duties under this section, the Commission may hold hearings, take testimony, and receive evidence at such times and places as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out its duties under this section.

#### **(m) Commission report**

##### **(1) In general**

The Commission shall, within 12 months after funds are made available to carry out this section, prepare and transmit to the President, the Committee on Natural Resources of the House of Representatives, the Committee on Indian Affairs of the Senate, and the Committee on Energy and Natural Resources of the Senate, a report containing the recommendations and proposals specified in subsection (k) of this section.

#### **(2) Review and comment**

Prior to submission of the report required under this section, the Chairman<sup>1</sup> shall circulate a draft of the report to Indian tribes and States that have Indian reservations with developable energy resources and other interested tribes and States for review and comment.

#### **(n) Authorization of appropriations**

There are authorized to be appropriated to the Commission \$1,000,000 to carry out this section. Such sum shall remain available, without fiscal year limitation, until expended.

#### **(o) Termination**

The Commission shall terminate 30 days after submitting the final report required by subsection (m) of this section.

(Pub. L. 102-486, title XXVI, §2605, Oct. 24, 1992, 106 Stat. 3115; Pub. L. 103-437, §10(e)(1), (2)(D), Nov. 2, 1994, 108 Stat. 4589.)

#### REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (j)(2), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (j)(2), is set out under section 5332 of Title 5.

#### AMENDMENTS

1994—Subsec. (m)(1). Pub. L. 103-437 substituted “Committee on Indian” for “Select Committee on Indian” and “Natural Resources” for “Interior and Insular Affairs”.

#### CHANGE OF NAME

Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

### **§ 3506. Tribal government energy assistance program**

#### **(a) Financial assistance**

The Secretary may grant financial assistance to Indian tribal governments, or private sector persons working in cooperation with Indian tribal governments, to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy projects on Indian reservations. Such grants may include the costs of technical assistance in resource assessment, feasibility analysis, technology transfer, and the resolution of other technical, financial, or management issues identified by the applicants for such grants.

#### **(b) Conditions**

Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, local educational institutions and the affected local energy institutions.

#### **(c) Considerations**

In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

<sup>1</sup> So in original. Probably should be “Chairperson”.

(1) the extent of involvement of local educational institutions and local energy institutions;

(2) the ease and costs of operation and maintenance of any project contemplated as a part of the project;

(3) whether the measure will contribute significantly to the development, or the quality of the environment, of the affected Indian reservations; and

(4) any other factors which the Secretary may determine to be relevant to a particular project.

#### (d) Cost-share

With the exception of grants awarded for the purpose of feasibility studies, the Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources, unless the grant recipient is a for-profit private sector institution, in which case the Secretary shall require at least 50 percent of the costs of any project to be provided from non-Federal sources.

#### (e) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary for the development and implementation of the program established by this section.

(Pub. L. 102-486, title XXVI, §2606, Oct. 24, 1992, 106 Stat. 3118.)

### CHAPTER 38—INDIAN TRIBAL JUSTICE SUPPORT

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#### SUBCHAPTER III—DISCLAIMERS

3631. Tribal authority.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 3652 of this title.

### § 3601. Findings

The Congress finds and declares that—

(1) there is a government-to-government relationship between the United States and each Indian tribe;

(2) the United States has a trust responsibility to each tribal government that includes the protection of the sovereignty of each tribal government;

(3) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and inherent sovereignty of Indian tribes;

(4) Indian tribes possess the inherent authority to establish their own form of government, including tribal justice systems;

(5) tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments;

(6) Congress and the Federal courts have repeatedly recognized tribal justice systems as the appropriate forums for the adjudication of disputes affecting personal and property rights;

(7) traditional tribal justice practices are essential to the maintenance of the culture and identity of Indian tribes and to the goals of this chapter;

(8) tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation; and

(9) tribal government involvement in and commitment to improving tribal justice systems is essential to the accomplishment of the goals of this chapter.

(Pub. L. 103-176, §2, Dec. 3, 1993, 107 Stat. 2004.)

#### SHORT TITLE

Section 1 of Pub. L. 103-176 provided that: "This Act [enacting this chapter] may be cited as the 'Indian Tribal Justice Act'."

### § 3602. Definitions

For purposes of this chapter:

(1) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) The term "Courts of Indian Offenses" means the courts established pursuant to part 11 of title 25, Code of Federal Regulations.

(3) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity, which administers justice under its inherent authority or the authority of the United States and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) The term "judicial personnel" means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution